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1946

B. Village

File No. Panchayats/46

Legal Department

B **BRANCH**

p 22 (E)/1946

Subject:— L. A. Bill. No. VI of 1946

A Bill to amend the Bombay Village Panchayats Act, 1933

(Insertion of new chapter VIII A)

Bom. Act. No XXIV of 1946

File No. B Village Panchayats/46

Gen. 194 e.

520-B

Office of the P.L.A.

The H.D. considers that the village bench should be withdrawn from Chembur. The H.L.A. was therefore consulted whether it could be done under section 37 of the Bombay Village Panchayats Act, 1933. The H.L.A. in his opinion No. 7801 dated 20th October 1945 advised that undersection 37 Govt. could only withdraw all or any of the judicial powers conferred on a village bench if in the opinion of Government such bench had been incompetent in the exercise of or had been guilty of the abuse of the said powers. With a view to achieving the aforesaid object, H.D. now proposes to amend sub-section(2)of section 37 of the Bombay Village Panchayats Act, 1933, by adding the words "or for any other reason" at the end of the proviso to the said sub-section(2)of section 37.

2 The amendment of section 37(2)of the Bombay Village Panchayats Act, 1933, in the manner now suggested would not carry out the intentions of Government. Sub-section(1)of section 37 of the Act imposes an obligation upon every panchayat to elect at its first meetings five members for the purpose of constituting a village bench. Sub-section(2)of section 37 of the Act imposes an obligation upon the Provincial Government to issue an order directing what judicial power under the Act shall be exercised by such a bench. After such a bench has been constituted and invested with the judicial powers under the Act, the Provincial Government is givenunder the proviso to sub-section(2)of section 37 the power towithdraw all or any of the judicial powers conferred on such a bench, for the reasons stated therein. Even though section 37(2)as proposed to be amended would enable Government to withdraw all the powers from a village bench, the power under the proviso is to be exercised with reference to a village bench for the time being constituted and now with reference to all such benches which may come to be constituted from time to time under sub-section(1)of section 37 of the Act. In other words the notification withdrawing all the powers of a village bench would not affect the powers of a new bench which it is obligatory upon a panchayat to constitute at its first meeting under section 37(1)

A
31/7

Furthermore, the consequences of a notification issued under the proviso to section 37(2) withdrawing the powers of the village bench for any of the reasons stated in the notification are described in section 106. Even if section 37(2) is amended in the manner suggested by H.D. and a notification is issued by that Department withdrawing all the powers of the village bench of Chembur, it would not be feasible to comply strictly with the provisions of sub-section(2)(ii) of section 106 of the Act which comes into operation on the dissolution of a village bench or with section 78 as regards decrees and orders already passed by the bench, as there is no Subordinate Judge now in Greater Bombay, nor any District Court, nor any District Magistrate.

3 In order to carry out Secretary, H.D.'s policy it is expedient to pass a self-contained enactment providing that the provisions of sections 37 and 57 of the Village Panchayats Act shall not apply to the panchayat of any village situated in Greater Bombay. The same enactment would then provide for-

(a) the disposal of suits, and cases pending before the village bench of the panchayat by competent civil and criminal courts in the area;

(b) the disposal of appeals against decrees and orders passed by such village bench before its dissolution by such authority as the Government may direct;

(c) the disposal of execution proceedings etc. by the appropriate courts in Greater Bombay.

A tentative draft Bill on the above lines is sent herewith for the consideration of H.D.

Id./.... 13/12/45

Remembrancer of Legal Affairs.

U.R. to H.D. No. 9397, dated the 14th December 1945.

SHR 17-7-56
4 Copies.

Legal Department.

Passed on to the Secretary to the Governor.

2 None of the amendments to L.A.Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayat Act, 1933) by Mr. D.K.Kunte, M.L.A. requires any sanction or recommendation under the Government of India Act, 1935, or affects any of the special responsibilities of the Governor under section 52(1).

3 The Bill has passed with the amendments.

Id./.... 23/7/46

Secretary to Government.

Secretary to the Governor No. 291-L dated the 23rd July 1946.

SMR 17-7-46
4 Copies.

Office of the
Remembrancer of Legal Affairs.

Seen and returned.

The Bombay Village Panchayats(Amendment)Bill has been passed by the Bombay Legislative Assembly without the proposed clause 3 on p. 11 ante. A copy of the proposed reply on the points raised in this file is however sent herewith.

Id./..... 23/7/46
Remembrancer of Legal Affairs.

U.R. to G.D.No. 298-L, dated the 23rd July 1946.

SMR 17-7-56
4 Copies.

For sub-section(1)of section 89, as amended by Acts XVIII of 1939(Sec. 36)and II of 1945(sec. 5(1)), Governor's Act XIV of 1945 substituted sub-sections(1), (1A)and (1B). It is a simple matter to re-enact the provisions of XIV of 1945 with the desired amendment. If this is decided on G.D. may consider whether similar amendment in sub-section (1A)should not also be carried out.

Even without re-enacting XIV of 1945, the proposed amendment can be carried out. The result will be that when XIV of 1945 ~~expires~~ ceases to be in force an interesting position will arise, as under sec. 93(4)of the Constitution Act the Governor's Act will cease to be in force, which means that the amendments made by it in the Panchayats Act will no longer operate; but our amendment being to the latter Act will not automatically lapse. The alternative therefore is to amend XIV of 1945, so that the amendment will cease to be in force whenever XIV of 1945 ceases to be in force.

The best course is for G.D. to decide whether the provisions of XIV of 1945 are to be re-enacted. For the present cl. 3 and the note thereon in the Statement of Objects and Reasons may be deleted.

SMR 17-7-56
4 Copies.

No. 977-L
Legal Department,
Council Hall, Poona 23rd September 1946.

From

P.N.Moos, Esquire, C.I.E., I.C.S.,

Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Village Panchayats Act, 1933.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for the assent of His Excellency the Governor, an authentic copy of a Bill to amend the Bombay Village Panchayats Act, 1933, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 17th July 1946 and the 13th September 1946 respectively.

2 None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clauses(a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3 The subject matter of the Bill falls under entries 2 and 13 in the Provincial Legislative List in the Seventh Schedule to the Government of India Act, 1935.

4 The Bill does not contain any provision repugnant to the provisions of any earlier Federal law or an existing Indian law with respect to any of the matters enumerated in the concurrent Legislative List. It is not therefore necessary to reserve the Bill for consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1933.

5 The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

6. I am also to forward herewith one copy of each of the papers noted in the margin. The Bill was not referred to a Select Committee.

1 Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2 Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
3 Bill as read for the third time and passed by the Bombay Legislative Council.
4 Extracts from the proceedings of the B'bay Legislative Assembly dated the 17th July 1946 and of the Bombay Legislative Council dated the 13th September 1946.

I have the honour to be,

Sir,

Your most obedient Servant,

Id./.... 23/9/46

Secretary to the Government of Bombay,

Legal Department.

Through the Secretary to the Government of Bombay,

General Department.

SMR 17-7-56
4 Copies.

No. GS 3192
Office of the Governor's Secretary
Government House

From

D.Symington, Esquire, CIE.ICS.
Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department, Poona.

Ganeshkhind, 7th October 1946.

Subject: The Bombay Village Panchayats(Amendment)Bill, 1946.

Sir,

With reference to your letter No.977-L, dated 23rd September 1946, I am directed to return herewith, with His Excellency the Governor's assent signified thereon, the copy of the Bombay Village Panchayats(Amendment)Bill, 1946.

I have the honour to be,
Sir,
Your most obedient servant,

Sd./.....

Secretary to the Governor of Bombay.

SMR 17-7-56
4 Copies.

A Bill to amend the Bombay Village Panchayats Act, 1933.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 169-L
Council Hall, Poona 9th July 1946.

Memorandum from the General Department, No. nil, dated the 9th July 1946. Transferring for necessary action, the papers relating to a Bill to amend the Bombay Village Panchayats Act, 1933.

RESOLUTION. The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 10th July 1946, as Bill No. VI of 1946.

2 The Bill and the Statement should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagari scripts)and the tranalations should be published in the Bombay Government Gazette, on the 12th July 1946.

3 The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd./.....

Assistant Secretary to the Government of B'bay
Legal Department.

To

The Manager, Government Central Press, Bombay(with a Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and the Statement may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).

Etc.

SMR 17-7-56
4 Copies.

Publication of the Bombay Village Panchayats(Amendment)Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 1138-L
Council Hall, Poona, 8th October 1946.

Letter to the Secretary tothe Governor No. 977-L dated the 23rd September 1946.

Letter from the Secretary to the Governor No. GS. 3192, dated the 7th October 1946.

"With reference to your letter No. 977-L, dated 23rd September 1946, I am directed to return herewith, with His Excellency the Governor's assent signified thereon, the copy of the Bombay Village Panchayats (Amendment)Bill, 1946".

RESOLUTION. The law should be published as Bombay Act No. XXIV of 1946 in the Bombay Government Gazette, dated the 9th October 1946.

2 The Act shouldbe translated into Marathi, Gujarati Kannada and Hindustani(in Urdu and Devnagari scripts) and the translations should be published ~~xx~~ in the Bombay Government Gazette.

3 A copy of the Act should be forwarded to the General Department withreference to the memorandum from that Department dated the 9th July 1946.

By order of the Governor of Bombay,

Sd./K.M.CHITNVIS,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay,(with a copy of the Act and ~~xx~~ with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).

Etc.

SMR 17-7-56
4 Copies.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 10TH JULY 1946.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. VI OF 1946.

A Bill to amend the Bombay Village Panchayats Act, 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purpose hereinafter appearing; It is hereby enacted as follows :— Bom. VI of 1933.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1946. Short title.

2. After Chapter VIII of the Bombay Village Panchayats Act, 1933, the following Chapter shall be inserted, namely :— Insertion of new Chapter VIII-A in Bom. VI of 1933. Bom. VI of 1933.

"CHAPTER VIII-A.

Abolition of Village Benches in Greater Bombay.

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay. Abolition of village benches in Greater Bombay.

88B. (*1*) A village bench constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Pending proceedings. Bom. of 1946.

(*2*) On the dissolution of the village bench under sub-section (*1*), the provisions of clauses (i) and (ii) of sub-section (*2*) of section 106 shall apply with the modification that the reference in those clauses to the Court of the Civil Judge shall be deemed to be a reference to the relevant civil court in Greater Bombay.

Appeals.

88C. An appeal against a decree or order passed by such village bench before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review."

STATEMENT OF OBJECTS AND REASONS.

Under section 37 (*1*) of the Bombay Village Panchayats Act, 1933, the constitution of a village bench in a village panchayat is obligatory. By the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, the jurisdiction of the Bombay City Police and the limits of the ordinary original civil jurisdiction of the Bombay High Court have been extended to certain areas of the Bombay Suburban District and certain city laws have been extended to the said areas. Some of the provisions of the Village Panchayats Act as regards decrees and orders passed by a village bench of a village panchayat cannot be complied with as the courts of appeal, namely, the District Court and the Court of the District Magistrate are now no longer functioning in the said areas. It is, therefore, considered necessary to dissolve the village bench of Chembur village situated in the said areas. On the dissolution of the village bench, the appropriate courts in Greater Bombay should dispose of suits and cases pending before the village bench and appeals against decrees and orders passed by the village bench. The proposed Bill is intended to achieve these objects.

21st June 1946. (Signed) G. D. VARTAK.

By order of the Governor of Bombay,

K. M. CHITNVIS,
Assistant Secretary to Government,
Legal Department.

Poona, 9th July 1946.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. VI OF 1946.

[An Act] A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 17th July 1946.)

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Bom. VI of 1933.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1946. Short title.

2. After Chapter VIII of the Bombay Village Panchayats Act, 1933, the following Chapter shall be inserted, namely :— Insertion of new Chapter VIII-A in Bom. VI of 1933.

Bom. VI of 1933.

"CHAPTER VIII-A.

Abolition of Village Benches in Greater Bombay.

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay. Abolition of village benches in Greater Bombay.

88B. (*1*) A village bench constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Pending proceedings.

Bom. of 1946.

(*2*) On the dissolution of the village bench under sub-section (*1*), the provisions of clauses (i) and (ii) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (ii) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

88C. An appeal against a decree or order passed by such village bench before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review : Appeals.

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed."

Bom. of 1946.

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STATEMENT OF OBJECTS AND REASONS.

Under section 37 (*1*) of the Bombay Village Panchayats Act, 1933, the constitution of a village bench in a village panchayat is obligatory. By the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, the jurisdiction of the Bombay City Police and the limits of the ordinary original civil jurisdiction of the Bombay High Court have been extended to certain areas of the Bombay Suburban District and certain city laws have been extended to the said areas. Some of the provisions of the Village Panchayats Act as regards decrees and orders passed by a village bench of a village panchayat cannot be complied with as the courts of appeal, namely, the District Court and the Court of the District Magistrate are now no longer functioning in the said areas. It is, therefore, considered necessary to dissolve the village bench of Chembur village situated in the said areas. On the dissolution of the village bench, the appropriate courts in Greater Bombay should dispose of suits and cases pending before the village bench and appeals against decrees and orders passed by the village bench. The proposed Bill is intended to achieve these objects.

21st June 1946.

G. D. VARTAK.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. VI OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 17th July 1946.)

[An Act] A Bill to amend the Bombay Village Panchayats Act, 1933.

[Mr. G. D. VARTAK, B.A., M.L.A.]

BOMBAY, PRINTED AT THE GOVERNMENT CENTRAL PRESS

65 — 143
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L. A. BILL No. VI OF 1946.

An Act to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 17th July 1946.)

(As read for the third time and passed by the Legislative Council on the 13th September 1946).

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1946.

Insertion of new Chapter VIII-A in Bom. VI of 1933.

Bom. VI of 1933.

2. After Chapter VIII of the Bombay Village Panchayats Act, 1933, the following Chapter shall be inserted, namely :—

"CHAPTER VIII-A.

Abolition of Village Benches in Greater Bombay.

Abolition of village benches in Greater Bombay.

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay.

Pending proceedings.

Bom. of 1946.

88B. (*1*) A village bench constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date.

(*2*) On the dissolution of the village bench under sub-section (*1*), the provisions of clauses (i) and (ii) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (ii) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

Appeals.

88C. An appeal against a decree or order passed by such village bench before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review:

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed."

Bom. of 1946.

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Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. VI OF 1946.]

(As read for the third time and passed by the Legislative Assembly on the 17th July 1946.)

(As read for the third time and passed by the Legislative Council on the 13th September 1946.)

An Act to amend the Bombay Village Panchayats Act, 1933.

[Mr. G. D. Vartak, B.A., M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 9TH OCTOBER 1946.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XXIV OF 1946—An Act to amend the Bombay Village Panchayats Act, 1933	231-232

The following Act of the Bombay Legislature having been assented to by the Governor on the 5th October 1946 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXIV OF 1946.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 9th October 1946.)

An Act to amend the Bombay Village Panchayats Act, 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purpose hereinafter appearing; It is hereby enacted as follows :— Bom. VI of 1933.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1946. Short title.

2. After Chapter VIII of the Bombay Village Panchayats Act, 1933, the following Chapter shall be inserted, namely :— Insertion of new Chapter VIII-A in Bom. VI of 1933.

"CHAPTER VIII-A.

Abolition of Village Benches in Greater Bombay.

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay. Abolition of village benches in Greater Bombay.

Pending proceedings.

88B. (*1*) A village bench constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Bom. XXIV of 1946.

(*2*) On the dissolution of the village bench under sub-section (*1*), the provisions of clauses (i) and (ii) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (ii) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

Appeals.

88C. An appeal against a decree or order passed by such village bench before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review:

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed." Bom. XXIV of 1946.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. VI OF 1946 (A BILL TO AMEND THE BOMBAY VILLAGE PANCHAYATS ACT, 1933).

Mr. G. D. VARTAK (Minister for Local Self-Government): Sir, I beg to introduce L. A. Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933).*

The Hon. the SPEAKER : L. A. Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) is introduced.

Mr. G. D. VARTAK : Sir, I beg to move that L. A. Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) be read a first time.

Question proposed.

Mr. G. D. VARTAK : Sir, by Bombay Act XVII of 1945, the jurisdiction of the Bombay City Police and the limits of the original jurisdiction of the Bombay High Court have been extended to certain areas of the Bombay Suburban District, which is now known as Greater Bombay. The village of Chembur lies within this area of the Bombay Suburban District. Chembur has got a Village Bench. This is in accordance with section 37 of the Village Panchayats Act which requires that each village panchayat should have a Village Bench. Such Village Benches exercise certain judicial powers in regard to petty disputes and offences, and an appeal against the decision of the Village Benches can be made to the district authorities, namely, the District Courts and the District Magistrates' Courts. Under the existing circumstances, there are no District Courts or District Magistrates' Courts within the area of Greater Bombay. Therefore, it is intended to dissolve the Village Bench of Chembur. After the dissolution of the Village Bench, all the pending cases before the Village Bench and appeals against decrees or orders passed by the Bench will be disposed of by the appropriate authorities in the Greater Bombay area. This Bill, in fact, is consequential to Bombay Act XVII of 1945 and, therefore, no further comments are necessary in support of it. I, therefore, move that the first reading of the Bill be accepted by the House.

Question put, and agreed to.

Mr. G. D. VARTAK : Sir, I beg to move that L. A. Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) be read a second time.

Question put, and agreed to.

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* Published at page 42 of the *Bombay Government Gazette*, Part V, dated 10th July 1946.

[Mr. G. D. Vartak]

Bill read clause by clause.

Clause 2 (*Insertion of new Chapter VIII-A in Bom. VI of 1933*).

After Chapter VIII of the Bombay Village Panchayats Act, 1933, the following Chapter shall be inserted, namely :—

"CHAPTER VIII-A.

Abolition of Village Benches in Greater Bombay.

88A. *Abolition of village benches in Greater Bombay.*—Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay.

88B. *Pending proceedings.*—(*1*) A village bench constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date.

(*2*) On the dissolution of the village bench under sub-section (*1*), the provisions of clauses (*i*) and (*ii*) of sub-section (*2*) of section 106 shall apply with the modification that the reference in those clauses to the Court of the Civil Judge shall be deemed to be a reference to the relevant civil Court in Greater Bombay.

88C. *Appeals.*—An appeal against a decree or order passed by such village bench before its dissolution under sub-section (1) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review."

Mr. D. K. KUNTE (Parliamentary Secretary) : Sir, I beg to move the following amendment :—

In clause 2—

1. In sub-section (*2*) of section 88B—

(*i*) for the words 'those clauses' the word, letter and brackets 'clause (*ii*)' shall be substituted; and

(*ii*) after the words 'Civil Judge' (in line 5) and 'Civil Court' (in line 6), the words 'or magistrate' shall be inserted.

2. To section 88C, the following proviso shall be added, namely :—

'Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed'.

Question proposed.

Mr. D. K. KUNTE : These are minor amendments which have become necessary for the following reasons :

Sub-section (*2*) of section 88-B directs that on the dissolution of a Village Bench, the provisions of clauses (*i*) and (*ii*) of sub-section (*2*) of section 106 will apply, with the modification that the reference in those clauses to the Court of the Civil Judge should be deemed to be a reference to the relevant civil court in Greater Bombay. If a reference is made to section 106, it will be seen that clause (*i*) of sub-section (*2*) thereof does not contain any reference to the Court of Civil Judge. Such a reference is found in clause (*ii*) only. This explains the reason for the first amendment.

Sub-section (*2*) of section 88-B, as it is now worded, will not cover any matters pending before criminal courts as that covers only matters pending before civil courts. It is possible that there might be some matters pending before criminal courts also. Hence the second amendment has been moved.

Section 88-C deals with the provision of appellate authority against a decree of order passed by Village Benches under this Bill. When this Bill becomes law certain appeals might be pending in some courts, and the question will arise as to how they

[Mr. D. K. Kunte]

should be disposed of. The proposed amendment makes the position clear by providing that appeals which are pending in the appropriate courts on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed.

The amendments are simple and I commend them for the acceptance of the House.

Mr. M. M. A. BHAIJI (Kolaba District): Sir, I should like to say a few words, especially with reference to section 88C, the printed copy of which is before the House. The section reads thus:

"An appeal against a decree or order passed by such village bench before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct....."

The words "to such authority as the Provincial Government may direct" require some clarification on the part of Government. I should like to know what type of authority Government would like to institute to which appeals can be made. My only fear is that, in the absence of specific provision, the appeals might be entrusted to any authority. I shall, therefore, much appreciate if Government makes a statement on this point.

Mr. G. D. VARTAK: It will be to the appropriate judicial authority.

Mr. D. K. KUNTE: Though the remarks passed by the hon. Member for Kolaba do not concern the amendment I have proposed, I would refer him to Bombay Act No. XIV of 1945 which is the Greater Bombay Act. Of course, though no mention is made of the competent court to which appeals will lie, and about which the hon. Member for Kolaba seeks elucidation from Government, clearly Government has in mind the appropriate legal authority. There need not be any doubts about that.

Mr. MIRZA AKHTAR HASAN (Trade Unions of Seamen and Dock Workers): Personally I see no reason why the mover of the amendment should find any difficulty in specifying the judicial authority to which appeals will lie. The intention of raising the point was to get matters made clear. There is no reason why the mistake should be repeated even if it is made in the previous Act. Two wrongs will never make one right. The suggestion was so simple. If there is an omission which the other side points out, there is no reason why it should not be accepted by Government. The suggestion, only because it comes from the Opposition, should not be treated lightly. I expect this liberality of mind to be shown to us at least, which unfortunately seems to be lacking.

Mr. DINKERRAO N. DESAI (Minister for Civil Supplies): The intention is to refer all these cases to a judicial authority. It is not mentioned here because the particular Court or authority will have to be fixed having due regard to location. Therefore, the authority has not been exactly specified. What is intended is judicial authority.

Amendment put, and agreed to.

The Hon. the SPEAKER: I will read sub-section (*2*) of section 88B, and section 88C, as amended:

"On the dissolution of the village bench under sub-section (1), the provisions of clauses (*i*) and (*ii*) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (*ii*) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

[The Speaker]

"88C. An appeal against a decree or order passed by such village bench before its dissolution under sub-section (1) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review :

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed."

Clause 2, as amended, ordered to stand part of the Bill.

Clause 1 (Short title) ordered to stand part of the Bill.

The Preamable ordered to stand part of the Bill.

Mr. G. D. VARTAK : Sir, I move that Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) be read a third time and passed.

Question proposed.

Mr. G. D. VARTAK : I have no remarks to offer.

Question put, and agreed to.

The Hon. the SPEAKER : The Bill is read a third time and passed.

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BILL No. VI OF 1946 (A BILL TO AMEND THE BOMBAY VILLAGE PANCHAYATS ACT, 1933).

Mr. G. D. VARTAK (Minister for Local Self-Government): Sir, I beg leave to introduce Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933).*

The Hon. the PRESIDENT: The Bill is introduced.

Mr. G. D. VARTAK: Sir, I beg to move that Bill No. VI of 1946, a Bill to amend the Bombay Village Panchayats Act, 1933, be read a first time.

Question proposed.

Mr. G. D. VARTAK: Sir, by Bom. Act XVII of 1945 the jurisdiction of the Bombay City Police and the limits of the ordinary original civil jurisdiction of the Bombay High Court have been extended to the limits of the Borough Municipalities of Bandra, Vile Parle, Andheri and Kurla, to the District Municipalities of Ghatkopar, Kirol and Juhu, and to other 28 villages of the Bombay Suburban District. Chembur is also one of the villages so included in that area, and the local area of that village is governed by the Bombay Village Panchayats Act. Now, under section 37 of the Bombay Village Panchayats Act, 1933, it is obligatory on a village panchayat to constitute a Village Bench consisting of 5 members elected from amongst themselves. This Bench exercises certain judicial powers in regard to petty disputes and offences. An appeal against the decision of the Village Bench can be made to the district authorities, viz., the District Court and the court of the District Magistrate, as the case may be. But these courts of appeal are not functioning in the Greater Bombay area, and therefore, it is considered necessary to dissolve the Village Bench of Chembur. After its dissolution, all suits and cases pending before the Village Bench and appeals against decrees passed by the Village Bench shall be disposed of by the appropriate authorities in Greater Bombay. This Bill is simply consequential to Act No. XVII of 1945 and, therefore, further comment is not necessary. I, therefore, hope that the first reading of the Bill will be accepted by this hon. House unanimously.

Sir BEHRAM KARANJIA: Sir, may I know from the Hon. Minister whether or not Varsova is included in Greater Bombay?

Mr. G. D. VARTAK: Yes, it is included in Greater Bombay but there is no Village Panchayat. It is obligatory on the Village Panchayat to constitute a Village Bench and in the absence of the Village Panchayat there is no Village Bench.

Question "That the Bill be read a first time" put, and agreed to.

Mr. G. D. VARTAK: Sir, I beg to move that Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) be read a second time.

Question put, and agreed to.

Bill read Clause by Clause.

The Hon. the PRESIDENT: I have received no amendments and so I shall put clauses 1 and 2 together to the House.

Clauses 1 and 2 ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

Mr. G. D. VARTAK: Sir, I beg to move that Bill No. VI of 1946 (A Bill to amend the Bombay Village Panchayats Act, 1933) be read a third time and passed.

Question put, and agreed to.

The Hon. the PRESIDENT: The Bill is read a third time and passed.

*The Bill was passed by the Legislative Assembly on September 13, 1946.

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